

## Agricultural Marketing Service, USDA

## § 48.7

with a full explanation of the disposition of any and all produce not sold.

(i) *Good and sufficient cause* means, with respect to destroyed, abandoned, discarded, or dumped produce, that the produce so dealt with had no commercial value, or that some other legal justification for so dealing with such produce existed, such as an order of condemnation by a health officer or definite authority from the shipper.

(j) *Commercial value* means any value that the produce may have for any purpose that can be ascertained in the exercise of due diligence by the consignee without unreasonable expense on loss of time.

### ADMINISTRATION

#### § 48.3 Director.

The Director shall perform, for and under the supervision of the Secretary and the Deputy Administrator, such duties as the Secretary or the Deputy Administrator may require in enforcing the provisions of the Act and the regulations issued thereunder.

### VIOLATIONS

#### § 48.4 Destroying or dumping.

Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another who, without good and sufficient cause, shall destroy or abandon, discard as refuse, or dump any produce, directly or indirectly or through collusion with any person, shall be considered to have violated the Act.

#### § 48.5 False report or statement.

Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another shall be considered to have violated the Act if, knowingly and with intent to defraud, he makes any false report or statement to the person from whom such produce was received concerning the handling, condition, quality, quantity, sale, or disposition thereof.

#### § 48.6 Failure to account.

Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another shall be considered to have violated the

Act if, knowingly and with intent to defraud, he fails truly and correctly to account to the person from whom such produce was received.

### JUSTIFICATION FOR DUMPING

#### § 48.7 Evidence to justify dumping.

Any person, receiving produce in interstate commerce or in the District of Columbia, having reason to destroy, abandon, discard as refuse or dump such produce, should, prior to such destroying, abandoning, discarding or dumping, obtain a dumping certificate or other evidence of justification for such action. Certification, showing that the produce has no commercial value, should be obtained from:

(a) An inspector authorized by the United States Department of Agriculture to inspect produce; or (b) a health officer, or food inspector of any State, county, parish, city or municipality or of the District of Columbia. When no inspector or health officer, as designated in paragraph (a) or (b) of this section is available, affidavits as to the condition of the produce should be obtained from two disinterested persons having no financial interest in the produce involved or in the business of a person financially interested therein, and who are unrelated by blood or marriage to any such financially interested person, and who, at the time of certification, and for a period of at least one year immediately prior thereto, have been engaged in the handling of the same general kind or class of produce with respect to which such affidavits are to be made. The certificate or affidavit obtained for justifying dumping should identify the produce to be dumped by giving the name of the shipper, any identifying marks or brands on the original container, the type of container, the commodity, the quantity, the date of inspection, and contain a short description of the condition of the produce to be dumped at the time of inspection. The name, address and title of the person or persons making such inspection should also be designated on the certificate or affidavit.

COMPLAINTS

**§ 48.8 Filing of complaints.**

Any person having reason to believe that the Act or the regulations in this part have been violated should submit promptly all available facts with respect thereto to the Director for investigation and appropriate action.

**PART 50—RULES OF PRACTICE GOVERNING WITHDRAWAL OF INSPECTION AND GRADING SERVICES**

**Subpart A—General**

Sec.

50.1 Scope and applicability of rules of practice.

**Subpart B—Supplemental Rules of Practice**

50.10 Definitions.

50.11 Conditional withdrawal of service.

50.12 Summary suspension of service.

AUTHORITY: 7 U.S.C. 1621 *et seq.*; 7 CFR 2.35, 2.41.

SOURCE: 60 FR 8463, Feb. 14, 1995, unless otherwise noted.

**Subpart A—General**

**§ 50.1 Scope and applicability of rules of practice.**

(a) The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§1.130 through 1.151 of this title are rules of practice applicable to adjudicatory proceedings under the regulations promulgated under 7 U.S.C. 1621 *et seq.* for denial or withdrawal of inspection, certification, or grading service. In addition, the supplemental rules of practice in subpart B of this part shall be applicable to adjudicatory proceedings under the regulations promulgated under 7 U.S.C. 1621 *et seq.* for denial or withdrawal of inspection, certification, or grading service.

(b) Neither the rules of practice in §§1.130 through 1.151 of this title nor the supplemental rules of practice in subpart B of this part modify existing procedures for refusing to inspect, grade, or certify a specific lot of a product because of adulteration, im-

proper preparation of the lot for grading, improper presentation of the lot for grading, or because of failure to comply with any similar requirements set forth in applicable regulations.

**Subpart B—Supplemental Rules of Practice**

**§ 50.10 Definitions.**

*Director.* The Director of the Division or any employee of the Division to whom authority to act in his or her stead is delegated.

*Division.* The Division of the Agricultural Marketing Service, United States Department of Agriculture, initiating the withdrawal of inspection, certification, or grading service.

*Mailing.* Depositing an item in the United States mail with postage affixed and addressed as necessary to cause the item to be delivered to the address shown by ordinary mail, certified mail, or registered mail.

**§ 50.11 Conditional withdrawal of service.**

(a) The Director may withdraw grading or inspection service from a person for correctable cause. The grading or inspection service withdrawn, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as a grader or inspector can be made available.

(b) Written notice of withdrawal of grading or inspection service under this section shall be given to the person from whom grading or inspection services will be withdrawn in advance of withdrawal, whenever it is feasible to provide such an advance written notice. If advance written notice is not given, the withdrawal action and the reasons for the withdrawal shall be confirmed as promptly as circumstances permit, unless the deficiency which is the basis for the withdrawal has already been corrected.

**§ 50.12 Summary suspension of service.**

(a) *General.* In any situation in which the integrity of grading or inspection service would be jeopardized if the